IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

Crl.MC.No. 3584 of 2006()

ORDER DATED 5.10.06 ISSUED BY THE REVENUE DIVISIONAL OFFICE,DEVIKULAM

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PETITIONER: ACCUSED

M.I.POULOSE,
S/O.ISSAC, MARACHERRY PUTHAYATH,
MADIKANDOM, KANJIRAVELY, MANNAMKANDOM VILLAGE.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. REVENUE DIVISIONAL OFFICER,
DEVIKULAM.

3. RAGHAVAN NAIR,
RAGHUMANDIRAM, KADIKANDOM,
KANJIRAVELY, MANNAMKANDOM VILLAGE.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
SRI.T.O.XAVIER
SMT.VIVEEJA RAVINDRAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3584 OF 2006

Dated this the 3rd day of April, 2007.

ORDER

The petitioner had filed a petition before the Sub Divisional Magistrate and proceedings under Section 133 Cr.P.C were initiated. A conditional order Annexure-A1 was passed by the Sub Divisional Magistrate. Later, by Annexure-A2 order, the conditional order was confirmed and made absolute.

2. It is the case of the petitioner that subsequently there has been interference with the rights of the petitioner in violation of Annexure-A2 order. Thereupon Annexure-A3 application was filed for enforcement of Annexure-A2 order. Annexure-A4 report was obtained from the Village Officer. Annexure-A5 is the report submitted by the Village Officer prior to the passing of Annexure-A2 order.

3. The grievance of the petitioner is that in spite of such clinching material to show that Annexure-A2 has been violated, the Sub Divisional Magistrate, by Annexure-A6 order, has directed that the matter shall be kept in abeyance in view of O.S.94 of 2003, which was filed before the Munsiff's Court, Devikulam. The learned counsel for the petitioner submits that

Annexure-A7 has nothing to do with Annexure-A2 order, which is sought to be executed and in these circumstances, Annexure-A6 is liable to be set aside and the Sub Divisional Magistrate must be directed to execute Annexure-A2 order.

4. Notice was issued to the respondent. The respondent has entered appearance. It is not explained how Annexure-A7 decree can stand in the way of execution of Annexure-A2 order. I am, in these circumstances, satisfied that Annexure-A6 order deserves to be set aside and the Sub Divisional Magistrate ought to be directed to execute Annexure-A2 order in accordance with law.

5. In the result, this Crl.M.C is, allowed. Annexure-A6 order is set aside. The Sub Divisional Magistrate is directed to execute Annexure-A2 order as expeditiously as possible - at any rate, within a period of 60 days from this date.

6. Issue copy of the order to the learned counsel for the petitioner.

R.BASANT
JUDGE

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